FOR MYSORE STATE

(1954 Department)

17K SERIES.

G.O. No 3002

Dated 16 10 54

[Despatch Abstract.]

Prohibition — Arrack & Toddy.

Manufactured in Bhuvanagara

Products the Kalapadi & Kanara

Collectorate & sold Duty

Secrt. II- 42—22,000—8-11-52.

C. No. Department.

List of records put up.

Number.	Date.	Department.	Signature of Clerk putting up the paper.	Signature of Clerk removing the paper

T. A. Pai
MEMBER
MADRAS LEGISLATIVE ASSEMBLY

UDIPI (S. KANARA)

SECRETARIAT TO GOVERNMENT
12 AUG 1954
HOME DEPARTMENT

Camp - Madras,
7th August, 1954.

To
Hon'ble Sri B. Parameswaran,
Minister forProhibition,
Madras,

Dear Sir, 108298

Please examine and put up Bhanumurthy 12/8/54 urgently

Sub: Bhuvanendra Products Ltd., Katapadi, S.Kanara - Medicinal preparations containing self-generated spirit - Levy of duty on -

The Bhuvanendra Products Ltd., Katapadi were asked to send samples of Asavas & Arishtas to the Board's Laboratory for analysis and it was found thattwo of their preparations Sharivadyasava and Ashokarishta were found to contain 21.4 and 21.5% respectively of proof spirit as per C.R.No.13388 Pro/49 XC5 of 15-7-1949 and the Board held that these two preparations were liable to duty at Rs.35/- per proof gallon.

The Bhuvanendra Products Ltd., requested the Board to re-analyse their products as their own findings in a private Laboratory had given them the result of less than 20% of proof alcohol in these samples.

The Board conceded this request and in their communication R.No.1518-Pro of 24-6-1950 passed orders that Ashokarisht and Sharivadyasava manufactured by Bhuvanendra Products Ltd., contain only 13.6 and 14.8% of proof spirit respectively and, therefore, were eligible for exemption from duty as being purely Ayurvedic preparations containing less than 20% of proof spirit.

Since this was so we have to request you to exempt the above two from payment of Rs.474-8-0 levied on Ashokarishta and Rs.130-4-0 on Sharivadyasava levied by the order ref: A4-5548-50 of the Collector of South Kanara dated 17-3-1950, Ref: Board's D.No. 1202-Pro/49 dated 15-7-1949 and Board's C.R.Nl.13388-Pro/49

Contd.

Since these two preparations have been clearly classified by the Board as containing less than 20% alcohol it was not proper that this duty should have been levied. I request, therefore, the order be amended suitably deleting these two items. Till then I pray stay proceedings for collection of duty.

Yours sincerely.

(T. A. Pai)

T. A. Pai
MEMBER
MADRAS LEGISLATIVE ASSEMBLY

UDIPI (S. KANARA)

Camp - Madras,
11th August, 1954.

To
Hon'ble Sri B. Parameswaran,
Minister for Prohibition,
Madras.

Dear Sir,

Re: Bhuvanendra Products Ltd., Katapadi, S.Kanara - Prohibition - Asavas & Arishtas - Preparations similar to Medicated Wines - Levy of duty on -

By Order Ref: A4-5548-50 of the Collector of South Kanara dated 17-3-1950 and Board's D.No.1202-Pro/49 of 15-7-194 and Board's C. .No.13388-Pro/49 we have been asked to pay duty as follows:-

1) Drakshasava 2657.94 ozs	..	Rs.646 0 0
2) Draksharishta 1463.16 ozs	..	355 10 0
3) Mradvikasava 69.08 ozs	..	16 12 0
4) Pippallyasava 627.52 ozs	..	152 8 0

As per analysis conducted in the Board's Laboratory and indicated in their order D.No.1202-Pro of 15-7-49 by the Board of Revenue (Excise) the following results were found:

		Percentage of proof spirit.
1) Drakshasava	..	15.5
2) Draksharishta	..	13.7
3) Pippallyasava	..	18.5
4) Mradvikasava	..	5.5

As per G.O. Ms.No.548 Board of Revenue of 7th March 1949 levy of duty on medicinal preparations containing self generated spirit reads as follows:-

"In exercise of the powers conferred by section 18-A of the Madras Prohibition Act 1937 (Madras Act X of 1937) and

Contd.-

of all powers hereunto enabling His Excellency the Government of [redacted] directs thatmedicinal preparations containing spirit self generated from grape-juice or reisins which are similar to medicated wines shall be included in the terms "Medicated Wines" and duty shall be levied at Rs. 35/- per proof gallon on the spirit containing in such medicinal preparations permitted to be imported, exported, transported, manufactured, issued from any manufactory or institution or sold under the provisions of the said act or any rule, notification, licence or permit issued thereunder:-

Provided that purely Ayurvedic preparations containing 20% or less or proof spirit self generated as aforesaid shall be exempt from duty and decision of the Board of Revenue, Madras arrived at in consultation with the competent medical authority appointed by the Government as to whether any medicinal preparations is or is not a purely Ayurvedic preparation eligible for exemption from duty, shall be final".

It is clear that since the above preparations are purely Ayurvedic preparations containing 20% or less of proof spirit self generated they should have been exempted from duty, as otherwise the proviso to the Order is unnecessary.

Granting that medicinal preparations containing proof spirit self generated from grapes, grape-juice or reisins similar to medicated wines shall be included in the terms "Medicated Wines", and made dutiable, the Order could apply to Drakshasava and Draksharishta and not to Mradvikasava and Pippallyasava whilst they donot come under the above category. In view of this I request you to get preparations re-exained and till then stay proceedings of the duty that is made leviable. The Collector of South Kanara has already passed orders directing that the duty levied should be collected forthwith and I request you to issue immediate instructions to stop this until your decision is indicated.

Thanking you,

I am,
Yours sincerely,

T. A. Pai

Post Box No.405 Tele:Code "Quyadarce"

Office of the Board of Revenue(Excise), Madras

C.R.No.13388 Pro/49 XC5. Dated 15-7-1949

Sri V.N.Kudva, I.C.S.,

Commissioner of Land Revenue, Excise & Prohibition.

--- M&M----

Subject:- Prohibition - Asavas & Arishtas containing of self generated spirit - Manufactured by M/S Bhuvanendra Products Ltd, Katapadi - Clarification - Orders - Issued.

Read.- From M/S Bhuvanendra Products Ltd, Katapadi, No.237/49-50 Dated 24-5-1949.

G.O.Ms.No.548 Rev. Dated 7-3-1949

Reference:

The samples of Asavas & Arishtas manufactured by M/S Bhuvanendra Products Ltd, Katapadi have been analysed in the Board's Laboratory with the following results :-

Name of the preparation	Manufacturer's name	% of proof spirit.
1. Sharivadyasava	M/S Bhuvanendra Products Ltd, Katapadi.	21.4
2. Ashokarishta	-do-	21.5
3. Dashamoolarishta	-do-	16.0
4. Ashwagandharishta	-do-	15.5
5. Khadirarishta	-do-	14.3
6. Balarishta	-do-	7.2
7. Darvyadyarishta	-do-	19.2
8. Lohasava	-do-	0.4

The preparations Sharivadyasava and Ashokarishta contain more than 20 % of proof spirit and are classified by the Board as purely Ayurvedic preparations containing more than 20 % of proof spirit liable to duty at Rs.35/- per proof gallon. The remaining 6 preparations are classified by the Board as purely Ayurvedic preparations eligible for exemption from duty. These preparations should however be possessed for sale only under a licence in Form II or III-A or Form III-B.

P.Rajagopalachari.

Assistant Secretary.

To

All collectors; Deputy Commissioners of Prohibition(Enforcement) South & North; Assistant Commissioner for Distilleries; All District Prohibition Officers including City Prohibition Officer, Madras ; Inspector, Excise and Prohibition Intelligency Bureau; All Dy.Prohibition officers and Dy.Superintendents of Police(Prohibition); Collector of Central Excise, Madras; Collector of Customs, Madras ; Excise Commissioners Mysore, Travancore and Cochin; Special Dy.Collector, Pudukottah; Messrs. Bhuvanendra Products Ltd, Katapadi, South Kanara. Copy to stock file.

Forwarded / By order

K.H.Nambudiripad
Superintendent. 16-7-1949

Post Box No.405 Tele:"Code Word" Quyadarce

Office of the Board of Revenue(Excise)Madras.

R.No.1518-Pro Dated 24-6-1950.

Sri V.N.Kudva, I.C.S
Commissioner of Commercial Taxes.

SUBJECT:- PROHIBITION: Asavas & Arishtas containing self generated spirit - Manufactured by M/S Bhuvanendra Products Ltd.,Katapad - Reclassification.

READ:- Letter from M/S Bhuvanendra Products Ltd., Katapadi dated 7-2-1950 and 3-4-1950
(2) From the Principal,College of Indigenous Medicine,L.Dis. No.15792/B4/50 dated 13-6-1950.
(3) G.O.Ms.No.548 Revenue dated 7-3-1949.
(4) Board's Ref.No.C.R.13388-Pro/49 XC5 dated 15-7-1949.

RESOLUTION:-

The two samples of the preparations " Ashokarishta" and "Sharivadyasava" manufactured by M/S Bhuvanendra Products Ltd., Katapadi have been analysed in the Board's laboratory with the following results

NAME OF THE PREPARATIONS	MANUFACTURERS' NAME	% OF PROOF SPIRIT
1. Ashokarishta	M/S Bhuvanendra Products Ltd., Katapadi.	13.6
2. Sharivadyasava	"	14.8

B

2. The preparations have been reclassified by the Board as purely Ayurvedic Preparations containing less than 20% of proof spirit eligible for exemption from duty. The preparations should however be possessed for sale only under a licence in Form II, Form III-A or III-B or III-C and should be sold only on the prescription of a qualified Medical Practitioner.

Sd.V.Krishnamoorthy
Assistant Secretary.

To
Messrs. Bhuvanendra Products Ltd., Katapadi.S.K
All Collectors, City Prohibition officer, Madras.
All District Prohibition Officers; All Deputy Prohibition Officers
Inspectors,Excise and Prohibition Intelligence Bureau,
Copy to Collector of Customs, Madras; Collector of Central Excise,Madras
Excise Commissioners, Mysore, Cochin & Travancore.
Special Deputy Collector,Pudukotte and copy to the stock file.
(Spare copies 10) Deputy Commissioner, Prohn(enft) South & North
and all Deputy Superintendents of Police concerned.

Forwarded / By order
Sd.
Superintendent.

B-26/6

AMENDMENT TO NOTIFICATION UNDER THE MADRAS PROHIBITION ACT.

(G.O.Ms.No.369, Revenue, 15th February 1949)

Levy ofduty on liquor. Fort St.George Gazette February 11,1949

No.288.

In exercise of the powers conferred by section 18-A of the Madras Prohibition Act, 1937 (Madras Act X of 1937) His Excellency the Governor of Madras hereby directs that the duty under that section shall be levied on the following kinds of liquor permitted to be imported, exported, transported, manufactured, issued from any manufactory or institution or sold, under the provisions of the said act or any rule, notification, licence or permit issued thereunder, at the rate mentioned against each kind of liquor.

Kind of liquor	Rate of duty
1. Indian made foreign spirit	Rs.35/-(rupees thirty five only) per proof gallon
2. Indian made rectified spirit and absolute alcohol	Rs.35/-(rupees thirty five only) per proof gallon.
3. Indian made wine and medicated wine and similar preparations	Rs.35/-(rupees thirty five only) per proof gallon.
4. Indian made beer	Rs.0-12-0 per imperial gallon.

V.K.Rao,
Deputy Secretary to Government.

Levy of duty on medicinal preparations containing self generated spirit (G.O.Ms.No.548,Revenue, 7th March 1949)

472.

In exercise of the powers conferred by section 17 of the Madras Abkari Act 1886(Madras Act I of 1886) and of all other powers hereunto enabling His Excellency the Governor of Madras hereby makes the following amendments to Revenue Department Notification No.98, dated the 14th February 1946 published at page 149 of Part I of the Fort St.George Gazette dated the 19th February 1946:-

AMENDMENT

For the proviso at the end of this said notification the following proviso shall be substituted namely:-

" Provided that purely Ayurvedic preparations containing 20% or less of proof spirit self generated as aforesaid shall be exempt from duty and the decision of the Board of Revenue, Madras arrived at in consultation with the competent medical authority appointed by the Government as to whether any medicinal preparation is or is not a purely Ayurvedic preparation eligible for exemption from duty shall be final."

No.473.

In exercise of the powers conferred by section 18-A of the Madras Prohibition Act 1937(Madras Act X of 1937) and of all powers hereunto enabling His Excellency the Governor of Madras hereby directs that medicinal preparations containing spirit self generated from grapes, grape-juice or reisins which are similar to medicated wines shall be included in the term "Medicated Wines" and duty shall be levied at Rs.35/- per proof gallon on the spirit containing in such medicinal preparations permitted to be imported, exported, transported, manufactured, issued from any manufactory or institution or sold under the provisions of the said act or any rule, notification, licence or permit issued thereunder:-

Provided that purely Ayurvedic preparations containing 20% or less of proof spirit self generated as aforesaid shall be exempt from duty and decision of the Board of Revenue, Madras arrived at in consultation with the competent medical authority appointed by the Government as to whether any medicinal preparations is or is not a purely Ayurvedic preparation eligible for exemption from duty, shall be final.

V.K.Rao,
Deputy Secretary to Government.

Post Box No.405 Tele:Code word " Ouyadarce"

Proceedings/Office of the Board of Revenue(Excise), Madras.

D.No.1202-Ka. Sri V.A.Kudva, I.C.S., dated 15-7-1947
Commissioner of Land Revenue, Excise & Prohibition.

Subject:- Prohibition - liquor - Medicinal preparations containing self generated spirit which should be treated as preparations similar to medicated wines - further list - communicated.

Read:- B.P.R 340/abk/46 dated 24-2-1946
G.O.No.548, Revenue dated 7-3-1947.

Resolution: With reference to paragraph 6 of B.P.R 340/abk/46, dated 24-2-1946 the officers are informed that the following medicinal preparation containing self generated spirit have also been declared by the board as preparations similar to medicated wines liable to excise duty at the rate of Rs.35/- per proof gallon.

Name of the preparation	Manufacturer's name	% of proof spirit
1. Drakshasava	M/S Bhuvanendra Products Ltd Katapadi	15.5
2. Draksharishta	-do-	13.7
3. Pippallyasava	-do-	18.5
4. Mridvikasava	-do-	5.5

P.Rajagopalachari
Assistant Secretary

To

All Collectors.
To The Deputy Commissioners, Prohibition(Enforcement), North & South
To All District Prohibition Officers including the City Prohibition Officer, Madras and Assistant Commissioner for Distilleries, Madras.
To The Inspector, Excise and Prohibition Intelligency Bureau.
To All Deputy Prohibition Officers and Deputy Superintendents of Police (Prohibition)
To Collector of Central Excise, Madras.
To The Excise Commissioners, Mysore, Travancore & Cochin.
To The Special Deputy Collector, Pudukottah.
To The Collector of Customs, M A D R A S.
To M/S Bhuvanendra Products Ltd, Katapadi, South Kanara.
Copy to the stock file-

Forwarded / By order

K.R.Nambudiripad
Superintendent

Ref;A4-5548-50

South Kanara Collector's Office,
Mangalore, dated 17-3-1950.

From:- Janab Syed Ahammad, B.Sc.,(Hons)
Collector of South Kanara.

/To The Managing Director, Bhuvanendra Products Ltd.,
Katapadi.

Sir,

PROHIBITION - Asavas & Arishtas - declared by Board as preparations similar to Medicated Wines - Udipi Taluk, Katapadi - Manufactured by Bhuvanendra Products Ltd., Katapadi- Duty - for the period from 15-7-1949 to 31-1-1950 - levy of - reference.

Ref:-(1)Board's D.No.1202-Pro./49 dated 15-7-1949
(2) Board's C.R.No.13388-Pro/49 dated
(3) From the D.P.O South Kanara L.Dis.5339/49 dated 3-3-50

The quantity of proof spirit in each of the 6 preparations manufactured by your firm during the period from 15-7-1949 to 31-1-1950 and the amount of duty thereon at Rs.35/- per proof gallon of spirit are given below:-

Proof spirit	Amount of duty		
1.Drakshasava 2657.94 ozs	646	0	0
2.Draksharishta 1463.16 ozs	355	10	0
3. Mradvikasava 69.08 ozs	16	12	0
4.Pippallyasava 627.52 ozs	152	8	0
5.Ashokarishta 1952.2 ozs	474	8	0
6.Sharivadyasava 535.856 ozs	130	4	0
	1775	10	0

Rupees one thousand seven hundred and sevety five only

(2) I request you to see that the amount is credited to the nearest Sub-Treasury within 7 days and intimate the fact of credit along with challan receipt. The amount should be credited under the Head VIII provincial Excise-Wines and spirits - duty on wines and spirits manufactured in India.

By order
Sd.
Huzur Shiristedar.

Copy to The D.P.O S.K, Dy.P.O. Udipi

Home (Pro) Desk

Memo no 10829 & Pro 54 - 29 / 16 8 85

Please

Sub Publication - Arecas and Arecas - Bhuvanendra Products Ltd Kalpasri S. Kanara - Levy of duty - Refund of

Ref : Representation of M.S. Sri. T.A. Pai MLA Udipi

A copy of the reference cited is forwarded to the BS. of Rev (Ex) very for urgent remarks

Yours

16/8/85

2 Pl 16/8 2/ 15-8-85 Ka

The BS of Rev (Ex) 16/8/85.

with a copy of pages 1 — 7 CF)

Page 11

Letter no. 10829 & Pro 54 - 29 / 16 8 85

Please

To

Sri. T.A. Pai MLA

Udipi. S. Kanara

16/8

Sir

Pl CF 16/8

Ref Your kr. dated 11 - 8 - 85 addressed to M(REVT)

I am directed to state that the matter is being looked into.

Yours

2/ 16-8-85 Ka

16/8/85.

BOARD OF REVENUE (EXCISE) DEPARTMENT.

-o-

ASSISTANT SECRETARY TO GOVERNMENT
17 SEP 1954
HOME DEPARTMENT

SUB: ASAVAS AND ARISHTAS - Certain - Manufactured by Bhuvanendra Products Ltd., Katapadi - South Kanara District - Levy of duty.

READ: From the Bhuvanendra Products Ltd., letter Ref.No.460/54-55, dated 8-6-54.
From the Collector, South Kanara, L.Dis.16903/54 dated 31-7-54
Government Home Department Memo.No.108298/Pro/54-1, d/16-8-54.

Station: Triplicane, Madras-5,
C.R. No.17965/54 XC.3. Dated 14-9-54.

From

Sri. T.N.S. Raghavan, I.C.S.,
Member, Board of Revenue and Commissioner of Commercial Taxes.

-o-

123249 Sri. M.A.S. Jeddy, B.A., (Hons).,
Assistant Secretary,
Board of Revenue (Excise).

Reference:

A sum of Rs.1775-10-0 is due from the Bhuvanendra Products Ltd., Katapadi, South Kanara District, being the arrears of duty on certain Asavas and Arishtas manufactured by them, as detailed below:-

1.	Asokarishta (1952.2 oz) ..	Rs.474-8-0
2.	Saribadyasava (535.85 ozs) ..	130-4-0
3.	Drakshasava (2657.94 ozs.) ..	646-0-0
4.	Drakshrishta (1463.16 ozs.) ..	355-10-0
5.	Mridivikasava (69.08 ozs.) ..	16-12-0
6.	Pippalyasava (627.52 ozs.) ..	152-8-0
	Total ..	1775-10-0

The arrears relate to the stocks manufactured by the Company during the period 15-7-49 to 31-5-50. The Company have not so far paid the arrears in spite of the various demands issued by the Collector and the rejection by the Board of their petitions for exempting the preparations from duty. They have now submitted further representatio similar to the one forwarded with the Government Memo. cited, through Sri T.A.Pai, Member of the Legislative Assembly contending that the levy of duty was not proper.

2. The circumstances in which duty was levied on the Asavas and Arishtas in question are explained below:-

With reference to Revenue Department Notification No.473 dated 7-3-49, issued in G.O.Ms.No.548, Revenue dated 7-3-49, 12 Asavas and Arishtas manufactured by the Bhuvanendra Products Ltd., were analysed in the Board's Laboratory on 8-6-49. The preparations Saribadyasava and Asokarishta were found to contain 21.4 and 21.5 per cent respectively of proof spirit and were therefore classified, in consultation with the Principal, College of Indigenous Medicine, as Ayurvedic preparations liable to duty at Rs.35/- per proof gallon. Four other preparations (Drakshasava, Drakshrishta, Mridivikasava and Pappalyasava) were classified as similar to medicated wines liable to a duty of Rs.35/- per proof gallon after obtaining the opinion of the Principal, though the percentage of proof spirit in them was less than 20. The orders in all the six cases were issued on 15-7-49.

On 26-7-49, i.e. immediately after the issue of these orders, the Company submitted a petition stating that the first two preparations, Saribadyasava and Asokarishta do not ordinarily contain 20% of proof spirit and requesting that they might be tested once again and exempted from duty. They were informed that the preparations could not be reclassified at that stage.

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Again, in a petition dated 7-2-50, the Company repeated the request, stating that samples of these two preparations when analysed in the King Institute, Guindy were found to contain less than 20% of proof spirit. On this petition, fresh samples were called for by the Board and analysed on 12-5-50. The proof spirit content of these sample were found to be less than 20% and they were therefore reclassified and exempted from duty in Board's Proceedings R.No.1518/Abk/50 dated 24-6-50.

3. The main contention of the Company in regard to these two preparations is that as they were subsequently exempted from duty, the levy of arrears of duty is not proper. The Board submits that the arrears relate to a period prior to the date of exemption when the duty was levied with reference to the origina classification dated 15-7-49. The original classification was based on the analysis of the samples furnished by the Company themselves and was valid until it was revised. The reclassifica tion was made on the result of analysis of fresh samples. The orders of reclassification were issued on 24-6-50 and they had no retrospective effect. The Company's contention is that they should be given retrospective effect. This has already been considered by the Board on previous petitions received from them, and it was decided that the exemption from duty can take effect only from the date of subsequent test and not before. According to para 10 of the executive instructions approved in G.O.Ms.No.151 Revenue dated 17-1-50 and issued in connection with the levy of duty authorised in the Notification dated 7-3-49, samples of preparations not exempted from duty should be analysed once every year to examine their eligibility for exemption. According to para 8 of the same instructions, when a change is found in the percentage of proof spirit at the time of subsequent analysis, the revised rate of duty shall apply from the date of the test. It was therefore not the intention to give retrospective effect to reclassifications, year after year, and the Company's claim for waiver of the arrears of duty on Saribadyasava and Asokarishta is not sustainable.

4. The case of the other four preparations viz. Drakshasav Draksharishta, Mridrikasava and Pippalyasava, is however different They were classified as preparations similar to medicated wines liable to a duty of Rs.35/- per proof gallon after obtaining the opinion of the Principal, College of Indigenous Medicine. The Company urge that these four preparations are also purely Ayurvedi and are eligible for exemption from duty under the proviso to Revenue Department Notification dated 7-3-49, as the percentage of proof spirit did not exceed 20 in each case.

5. The Board would like to bring to the notice of the Government that the Asavas and Arishtas included in the Annexure to the Ayurvedic licences (III-A, B and C) were then being classified as similar to medicated wines in consultation with the Principal, College of Indigenous Medicine and subjected to duty irrespective of whether they were Ayurvedic or not. The ~~intem~~ criterion adopted in the classification of these preparations was whether they were capable of being consumed otherwise than in therapeutic doses. The Board in this connection invites the attention of the Government to its Ref.C.R.No.29864-Abk/46 dated 31-5-47 wherein it proposed that the levy of duty should depend on whether a preparation was liable to be misused as an intoxicating beverage, irrespective of whether it was purely Ayurvedic or not. When the four preparations were first subjected to duty, the Company made a representation for exemption on the ground that they were purely Ayurvedic and therefore not liable to duty. The Board then held that the G.O. in which the Notification dated 7-3-49 was issued did not preclude the classification of medicinal preparations containing self-generated spirit, as similar to medicated wines, irrespective of their alcohol content. Their recent petition was also rejected on the same grounds. During the period 7-3-49 to November '52 i.e. till duty was

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replaced by gallonage fee, preparations like Drakshasava manufactured by several other firms have been classified and subjected to duty in the above manner and it was considered that if this firm is shown a differential treatment others might also claim it.

6. According to the proviso to the Notification dated 7-3-49, purely Ayurvedic preparations containing 20% or less of proof spirit self generated shall be exempt from duty and the decision of the Board arrived at in consultation with the competent medical authority as to whether any medicinal preparation is or is not purely Ayurvedic shall be final. As stated in the previous para, the basis of classification actually adopted by the Board at that time was slightly different and there is considerable force in the argument of the petitioners that the four preparations, being purely Ayurvedic cannot be subjected to duty when the spirit contents were less than 20 per cent. It would terefore appear that on a strict interpretation of this proviso, the levy of duty would not be in order unless the preparations had been declared as not purely Ayurvedic and since this point was not considered at that time, it may be difficult to enforce the collection of arrears relating to the four preparations. It may be mentioned in this connection that these preparations are said to have been certified as purely Ayurvedic by the Principal, College of Indigenous Medicine.

7. In the circumstances, the Board requests that the Government may consider the question of waiving the arrears of duty amounting to Rs.1170-14-0 on the four items in question (Nos.3-6 in para 1). The Company have also requested stay of the Collector's orders demanding payment of the arrears. In view of the orders issued in Government Memo.No.2633/50-3 Public (Services) dated 21-8-50, the Government may also consider whether a stay may be issued so far as collection of duty on these four items is concerned.

Asreddy. 16/9/54
ASSISTANT SECRETARY

To
The Secretary to Government,
Home Department,
Fort St.George,
Madras-9.

kn.15/9.

BOARD OF REVENUE (EXCISE) DEPARTMENT.

-o-

SUB: Asavas and Arishtas - certain - Manufactured by Bhuvanendra Products Ltd., Katpadi, South Kanara District - levy of duty stay of restraint orders - Telegram - copy - furnished

READ: 1) Board's ref. CR. No.17965/abk/54 XC3 dated 14-9-54.
2) Telegram dated 25-9-54 from Bhuvanendra Products Ltd. Katpadi, South Kanara district.

SECRETARIAT SECRETARY 29 SEP 1954 EXCISE DEPARTMENT

Station: Triplicane, Madras-5.
C.R. No. 17965 abk/54 XC3 Dated 28-9-1954.

From

128696

Sri. T.N.S. Raghavan, I.C.S.,
Member, Board of Revenue and Commissioner of Commercial Taxes.

-o-

Sri. M.A.S. Jeddy, B.A., (Hons).,
Assistant Secretary,
Board of Revenue (Excise).

Reference:

In continuation of its reference cited, the Board submits a copy of the Telegram received from Bhuvanendra Products Ltd., Katpadi, South Kanara district. The Board invites the attention of Government to para 7 of the reference and requests that early orders may kindly be passed on the question of stay.

A Jeddy 28/9/54

ASSISTANT SECRETARY.

To
The Secretary to Government,
Home Department.
-(with a copy of the telegram).

...

PRS-28-9

29

Copy of Telegram dated 25-9-54 from Bhuvanendra Products ltd., Katpadi.

--

" South Kanara Collector - issued restraint order for duty collection - pray - immediate stay and orders for representation made through T.A. Pai, M.L.A. last month "

/True copy/

Superintendent. 28/9/54

PRS-28-9.

28.9

IMMEDIATE.

HOME (PRO.) DEPT.

DRAFT I

G.O.MS.NO. 3082 DATED 16/10/54

PROHIBITION - Asavas and Arishtas - Manufactured by Bhuvanendra Products, Ltd., Kadapadi, South Kanara District - Collection of duty - Waived.

Read: From Sri T.A.Pai, M.L.A., dated 11-8-1954

From the Board of Rev. (Exc.), C.R.No.17965/54-XC.3. dated 14-9-1954.

O R D E R:

The Bd. of Rev. (Exc.) issued orders to the Collector of South Kanara to collect a sum of Rs. 1,775-10-0 from the Bhuvanendra Products, Ltd., Kadapadi, South Kanara District being the duty on certain Asavas and Arishtas manufactured by the Company as detailed below:-

1) Asokarishta (1952.2 oz.)	...	Rs. 474--8--0
2) Saribadyasava (535.85 ozs.)	...	Rs. 130--4--0
3) Drakshasava (2657.94 ozs.)	...	Rs. 646--0--0
4) Drakasharishta (1463.16 ozs.)	...	Rs. 355-10--0
5) Mridivikasava (69.08 ozs.)	...	Rs. 16-12--0
6) Pippalyasava (627.52 ozs.)	...	Rs. 152--8--0
		Rs.1,775-10--0

The arrears relate to the stocks manufactured by the Company during the period from 15-7-1949 to 31-5-1950. The Company did not pay the duty and represented to the Board to re-consider its orders as the preparations were purely Ayurvedic and did not contain more than 20% of proof spirit, with reference to the notification issued with G.O.Ms.No. 548, Revenue, dated 7-3-1949. As the Company's requests were negatived by the Board, the Company represented to Government on 11-8-1954, through Sri T.A. Pai, M.L.A., that the levy of duty on the preparations was not proper and requested that the order levying duty may be amended suitably.

2. The Government have examined the requests of the Company in consultation with the Bd. of Rev. (Exc.). As regards the levy on the first two preparations referred to in para 1 above, there seems to be some force in the Company's argument. The first analysis made in Board's Laboratory showed the spirit content of the two preparations as more than 20%. But the analysis made in the King Institute and the subsequent analysis made in the Laboratory of the Bd. showed the spirit content as less than 20%. It is therefore likely that the original analysis in the Board's Laboratory might have been wrong. The Govt. therefore direct that the levy of duty in respect of these two preparations be waived.

As regards the other four preparations the Government agree with the Bd. of Rev. that the basis of classification adopted by the Board when levying the duty was not strictly in accordance with the proviso to the notification issued with G.O.No.Ms. 548, Rev. d/ 7-3-1949 and that the levy is not in order. They accordingly direct that the duty levied in respect of these preparations also be waived.

11/10/50

To The Bd. of Rev. (Exc.), Madras-5.
The Collector of South Kanara,
Mangalore.

P.T.O. for Draft. II

DRAFT II.

LETTER NO. 108298 Ex/54-3 DATED 16/10/54.

To

Sri T.A. Pai, M.L.A.,

Udipi, South Kanara.

Sir,

PROHIBITION - Asavas and Arishtas - Manufactured by Bhavanendra Products, Ltd., Kattapadi, South Kanara District Collection of duty - Waived.

Ref:- Your letter addressed to the Minister for Prohibition, dated 11-8-1954.

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I am directed to forward for your information a copy of the Government Order No. 3082 Home dated 16/10/54 in the subject noted above.

(C.No.108298/Pro/54.)

Home (Pro.) Deptt.

PROHIBITION- Asavas and Arishtas- Manufactured by Bhuvanendra Products Ltd.,Katapadi- Levy of duty.

From Sri T.A.Pai, M.L.A., dated 11-8-54.
Memo No.108298 Pro./54-1 Home dated 16-8-54.
From the Board of Rev. (Exc.) C.R.No.17965/54 XC3 dated 14-9-54.

In his letters on pp.1-7 c.f. Sri T.A.Pai represented that the levy of duty on certain Ayurvedic preparations of Bhuvanendra Products Ltd., Katapadi, S.Kanara was not proper and requested that the order levying duty may be amended suitably. He also requested that pending final orders of Govt. in the matter, the order of the Collector of S.Kanara directing the collection of duty may be stayed The letters were referred to the Board of Rev. (Exc.) for very urgent remarks and the Board's report in the matter is on pp.21-25 c.f.

2. The facts of the case as reported by the Board of Rev. (Exc.) and represented by Sri T.A. Pai, on behalf of the company are as follows:-

A sum of Rs.1775-10-0 is due from the Bhuvanendra Products Ltd., Katapadi, South Kanara District, being the arrears of duty on certain Asavas and Arishtas manufactured by them, as detailed below:-

A	1. Asokarishta (1952.2 oz) ..	Rs.	474--8--0
	2. Saribadyasava (535.85 ozs)	"	130--4--0
	3. Drakshasava (2657.94 ozs).	"	646--0--0
	4. Drakshar ishta (1463.16 ozs.)	"	355-10--0
	5. Mridvikasava (69.08 ozs.)	"	16-12--0
	6. Pippalyasava (627.52 ozs.)	"	152- 8--0

The arrears relate to the stocks manufactured by the Company during the period 15-7-49 to 31-5-50. The Company have not so far paid the arears in

spite of the various demands issued by the Collector and the rejection by the Board of their petitions for exempting the preparations from duty. Duty at Rs.35/- per proof gallon on the two preparations, Asokarishta and Saribadyasava were levied with reference to orders in G.O.Ms.No.548 Rev. d. 7.3-49 and G.O. Ms.No.151 Rev. d. 17-1-50 as they were found to contain more than 20% of proof spirit in analysis In the case of the other four preparations referred to at 'A' on page 1 above, a duty of Rs.35/- per proof gallon were levied on these also after obtaining the opinion of the Principal, College of Indigenous Medicine. The orders of the Board for the levy of duty in all these cases were issued on 15-7-49. On 26-7-49, the company submitted a petition to the Board of Rev. (Exc.) stating that the first two preparations, Saribadyasava and Asokarishta do not ordinarily contain 20% of proof spirit and requesting that they might be tested once again and exempted from duty. The Board informed the company that the preparations could not be reclassified at that stage. Again on 7-2-50, the company repeated the request to the Board, stating that samples of these two preparations when analysed in the King Institute, Guindy were found to contain less than 20% of proof spirit. On this petition, the Board got fresh samples verified and these samples were found to contain less than 20% of proof spirit, they were reclassified and exempted from duty in Board's Proceedings R. No. 1518/Abk/50 dated 24-6-50. The company then claimed waiver of duty on the two preparations manufactured by them before that date.

As regards the other four preparations, the company urge that these four

preparations are also purely Ayurvedic and so eligible for exemption from duty under the provisio to Revenue Dept. Notification dated 7-3-49, as the percentage of proof spirit did not exceed 20 in each case".

3. The two cases referred to a bove are examined below:-

(1) Levy of duty on Asokarishta and Saribadyasava :- According to G.O.Ms.No.548 Rev. dated 7-3-49, no preparation which contains more than 20% proof spirit should be exempted from duty even if it is considered to be a purely Ayurvedic preparation. As the Board of Rev.(Exc.) found on examination of the two preparations that they contained 21.4 and 21.5 per cent proof spirit, duty was levied on them.

The reclassification made on 24-6-50 resulted in their exemption from duty. But, according to the Board, the company is bound to pay the duty on the original stock of these preparations, (1952.2 ozs. of Asokarishta and 535.8 oz Saribadyasava) as the exemption granted by the Board in its order R.No.1578/Abk/50 d.,24-6-50, has no retorspective effect. The company's contention is that the orders of the Board referred to above should be given retrospective effect. In support of its decision, the Board has quoted paras 8 & 10 of tne executive instructions issued in G.O. Ms.No.151 Rev. dated 17-1-50 and has stated that from the instructions it is clear that the intention of Govt. in issuing these instructions was not to give retorspective effect to reclassifications. The

Board therefore, is of opinion that the company's claim of waiver of recovery of the arrears of duty is not sustainable.

Submitted that the total amount involved in this case is only Rs.604-12-0 . The company contends that the Board's analysis was not correct. The Board evidently does not accept this and as such has not offered any remark on this point. The Board contends that the exemption takes effect from the date of reclassification and that it does not affect the previous stock of the preparations. The company has proved that its preparations do not contain more than 20% proof spirit, by getting an analytical report from the King Institute Guindy. As the amount involved is small it is for orders whether the collection of Rs.604-12-0 from the company as duty on Asokarishta and Saribadyasava prepared before May 1950 may be waived.

(2) Levy of duty on Drakshasava, Draksharishta, Mridvikasava and Pippalyasava

The company contends that these preparations are purely Ayurvedic preparations containing 20% or less of proof spirit and are therefore exempt from duty with reference to G.O.Ms.548 Rev. dated 7-3-49. The company has also stated that granting that medicinal preparations containing proof spirit self generated from grapes, grape-juice or reisins similar to medicated wines shall be included in the term 'Medicated wines' and made dutiable the order could apply only to Drakshasava and Sraksharishta and not to Mridavikasava and Pippalayasava. The Board agrees with the

contention of the company. It is reported that the Principal, College of Indigenous Medicine who is the proper authority to decide whether a preparation is purely Ayurvedic or not has certified that these preparations are purely Ayurvedic. The Board has also stated that the basis for the levy of duty then adopted by the Board was slightly different and that on a strict interpretation of the proviso to the Notification dated 7-3-49, the levy of duty would not be in order. In the circumstances the Board requests that the Govt. may consider the question of waiving the arrears of duty amunting to Rs.1170-14-0 on the four items in question.

For orders whether the collection of arrears may be waived as the contention of the company seems to be correct with reference to the order in G.O.Ms.548 Rev. dated 7-3-49.

4. In his letter on pp.1-7 c.f., Sri T.A. Pai, M.L.A. requested stay of the orders of the Collector of S.Kanara for the collection of duty. The Board has requested that the Govt. may also consider whether a stay may be issued so far as collection of duty on the four items referred to in para 3 (2) above The Board has also forwarded a copy of a Telegram from the company requesting stay of the destraint order of the Collector of S.Kanara vide p. 29 c.f. Submitted that as there is no case for the collection of duty as regards item (2) in para 3 above, and as the case for the collection of duty on item (1) of para 3 above is not morally very strong as

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explained already, it is for orders whether the Collector may be asked to withhold collection of duty till orders are passed by Govt. on the representation of the company made through Sri T.A.Pai, M.L.A.

5. Finance may see for remarks before circulation. That Deptt. may be requested to treat the matter as specially urgent. and return the file as quickly as possible.

4/10/54

5/10/54

Immediate

Home U.O No 108 RAB 54/10/54 - 1 dated 5.10.54.

Finance (Accounts)

The proposals of Home at 'S' on p. 4 above and 'M' on p. 5 above may be agreed to in Finan

9/10/54

102603 8-10-1954 Accts. FINANCE DEPARTMENT

Home

Home (Rep) Dept.

Summarising Note

This file deals with the question of waiver of the collection of Rs 1775-10-0 from Sri. Bhuvanendra Products, Dist. Kadapadi, S.Kanara Dt., as duty on certain Asavas and Arishtas manufactured by the Company. His Deptt note on pp 1-6 above explains the case in detail. It is proposed to waive the collection of duty in the circumstances explained in paragraphs 3(1) & (2) of the note on pp 3-5 above. The Finance Dept has agreed. A draft order sanctioning the waiver and a draft letter to Sri T.A. Pai, M.L.A informing of the decision of Govt on his representation are submitted for approval

ASSISTANT SECRETARY TO GOVERNMENT 182076 10 OCT 1954 para 1, p 21 c/1 HOME DEPARTMENT

Fin. U.O 102603 Accts/54 9-10-54

* A.D.S's note at S, on p. 4 above and or M on p 5 above

✓ X above

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27/11/54

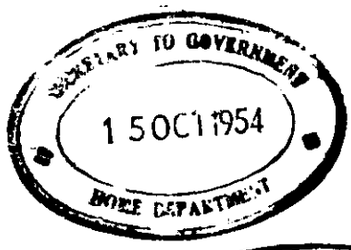
May be circulated to M(REST) for orders as to issue

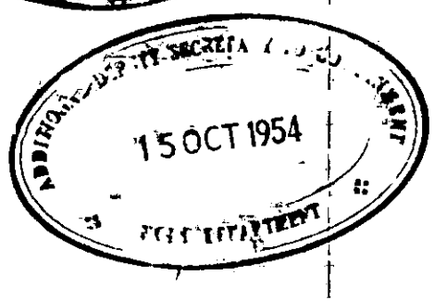
11/10/54.

May issue

11/10/54

M(REST) B Parameswaran
15-10-54





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